

State	EPA Program Area	Issue Title
CT	Water	Dredging Litigation
	Land	Raymark
	Air	Ozone pollution, transport and NAAQS planning
MA	Wtr	Springfield MA Water and Sewer Commission NPDES Permit
	Other	Off shoreWind Farm Permitting
	Lnd	GE Housatonic River Site Appeal
	Wtr	Nutrient Criteria Development

## State-Specific Issue Description

Important for CT to maintain access to the Eastern Long Island Sound dredged material disposal site approved by EPA but challenged by the state of NY. EPA is defending the designation in litigation with NY.

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

EPA is defending a NPDES permit issued by Region 1 in an EAB appeal filed by the permittee. The downstream state of CT has expressed strong interest in EPA's defense of the permit.

Region 1 is responsible for Clean Air Act Outer Continental Shelf permitting for the construction and operation of offshore wind energy development. Massachusetts is interested in timely permitting and ensuring adequate New Source Review offsets are available for these projects.

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

<b>EPA POC</b>
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491
Doug Gutro 617-918-1021 or Kate Melanson 617-918-1491

ME	Air	Ozone Transport Region Opt out, RACT Requirements under 2015 ozone standard
	Other	Renewable Energy Development
RI	Wtr	Naragansett Bay Water Quality
	Wtr	SNEP
	Other	EJ - Providence
	Wtr	Lake Champlain TMDL Implementation



# Ex. 5 Deliberative Process (DP)

raised by the state of Maine as a top issue for them

Rhode Island has worked for many years to improve water quality in Narragansett Bay, and has established stringent permit limits for wastewater dischargers. Upstream dischargers in Massachusetts, where EPA is the permit authority, also need to be controlled, and RI has strongly supported the permits issued by Region 1 (which have often been appealed to the EAB and the courts).

EPA is working closely with MA and RI to continue to develop this relatively new geographic program.

Rhode Island DEM is working with the City of Providence and the Racial and Environmental Justice Committee (REJC), a community-based environmental justice advocacy group, to develop a framework for Green Justice Zones (GJZ) in Providence, including in neighborhoods located near the Port of Providence. The GJZ effort aligns with EPA's Ports Initiative, through which EPA has provided technical assistance to launch a multi-stakeholder working group that seeks to advance projects that improve environmental conditions at the port and in near-port neighborhoods. In Fall 2020, EPA awarded a \$263,502 Community-Scale Air Toxics Ambient Monitoring grant to RIDEM. Through this grant, RIDEM plans to characterize air toxics emissions near the Port of Providence and characterize risks to the most highly affected populations, including surrounding environmental justice areas, schools and hospitals. Rhode Island Department of Environmental Management (RIDEM) will receive \$410,410 to help replace four pre-1999 Class 8 port drayage trucks with new trucks and replace two Tier 1 or older nonroad port terminal equipment with newer equipment certified to meet the latest EPA standards. Trucks and equipment service the Port of Providence. GJZs extend beyond areas near the Port of Providence and EPA supports the desire of frontline community advocates to address environmental and public health challenges holistically throughout the City of Providence.

EPA is working with VT to support the effective implementation of the Lake Champlain phosphorus TMDL issued by EPA in 2016. The TMDL created significant momentum to address long-standing cyanobacteria problems in the lake.

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

VT	Air	Wintertime woodsmoke pollution in valleys
	Other	PCB's in School
NH	Wtr	Great Bay
	Lnd	Pease Airforce Base

Vermont is part of the Particulate Matter (PM) Advance program. The program is designed to work with state partners that are currently in attainment for the PM standard, but are at risk for falling out of attainment. VT is primarily at risk due to the high use of wood burning as a heat source in the winter combined with the topography that can trap woodsmoke PM in valleys when the right meteorological conditions are in place.

Heightened press, congressional and public interest as a result of PCBs in Burlington HS

EPA and NH DES worked closely together to develop an innovative Nitrogen General Permit for 13 municipal wastewater treatment plants in the Great Bay watershed. EPA and DES are now collaborating to ensure that nonpoint nitrogen sources are also addressed.

Consideration of NH's new state PFAS MCLs relative to private wells near the base has been an issue with state, DOD and community

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

Doug Gutro 617-918-1021 or  
Kate Melanson 617-918-1491

State	EPA Program Area	Issue Title
NJ	Air	Climate Change
	Water	Lead in Drinking Water
	Other	NJ's Environmental Justice Legislation
NY	Air	Air Quality Issues (ozone, particulate matter transport issues) from upwind states
	Wtr	Water Quality Standards

**State-Specific Issue Description**

Addressing climate change is a key priority for NJ and NY. Their specific actions include: continuing to participate in the Regional Greenhouse Gas Initiative (RGGI), adopting the California standards for motor vehicles and is working on ensuring use of alternative energy which includes their emphasis on OCS wind power.

EPA Region 2 continues to provide laboratory support to the City of Newark and their contractor, CDM Smith, as they assess the effectiveness of their new corrosion control treatment (CCT) in the Pequannock service area while implementing their extensive lead service line replacement (LSLR) program. To date, over 17,000 of 18,000 known lead services lines have been replaced. The LSLR program is partially funded by EPA DWSRF funds. EPA also continues to provide technical assistance to NJDEP and the City as needed, and has been having discussions regarding the LCR and LCRR requirements with NJDEP as they develop their own state Lead and Copper Rule. EPA also assisted NJDEP in transferring from the CWSRF to the DWSRF the maximum amount of funds allowed under the Water Infrastructure Fund Transfer Act in 2020.

Requires NJDEP to evaluate the environmental and public health impacts of certain facilities on overburdened communities when reviewing certain permit applications. New Jersey is the first state in the nation to require mandatory permit denials if an environmental justice analysis determines a new facility will have a disproportionately negative impact on overburdened communities. The supporting regulations are under development.

Despite having stringent control programs for ozone precursor emissions, NY and NJ are subjected to significant levels of ozone pollution that are transported to the area from upwind states. NY and NJ have joined with neighboring states to call on EPA to take supplemental action to fully address interstate ozone transport, without which the NYC metro area will continue to exceed the 2008 and 2015 ozone standards. In addition local particulate matter air quality needs to be maintained.

A coalition of New York City-area environmental organizations sued EPA in to “promptly prepare and publish” water quality criteria to protect primary contact recreation (i.e., swimming) in certain waters around the City, related to actions EPA took in 2016 and 2018 on NYSDEC’s 2015 revised water quality standards. EPA continues to work with NYSDEC to ensure that appropriate water quality standards are in place. It is EPA’s continued goal to work closely with both NYSDEC and NYCDEP to improve the quality of the waters in and around New York City. This includes a goal of developing meaningful WQS for these waters which are protective of desired aquatic life and human recreational uses.

## EPA POC

[Lead POC: Rick Ruvo  
212-637-4014]; Eric  
Schaaf 212-637-3107

Javier Laureano 212-637-  
4125

Dave Kluesner 212-637-  
3653

Rick Ruvo 212-637-4014

Javier Laureano 212-637-  
4125



	Wtr	Combined Sewer Overflows (CSOs)
PR	Air	Concerned with SO2 attainment
	Other	Restructuring the power grid
	Wtr	Aging Drinking Water, Wastewater, and Stormwater Infrastructure
	Lnd	Solid Waste Management Crisis
USVI	Enfrcmnt	Limetree Bay - Permitting & Enforcement
	Wtr	Aging Wastewater Infrastructure
	Lnd	Solid Waste Management Crisis

Note: All of our States have budget issues, but the Caribbean's budget issues are d  
 Additionally, Puerto Rico and USVI are experiencing lack of capacity in implementi

New York City has 14 sewage treatment plants, 13 of which contain combined sewer systems. There are approximately 410 outfalls in the combined sewer collection system that contribute approximately 20 billion gallons of combined sewage overflow into New York City receiving waters each year. The New York City Department of Environmental Protection (NYCDEP) is currently under a Consent Order with the New York State Department of Environmental Conservation (NYSDEC) to develop and implement these CSO Long Term Control Plans (LTCPs). EPA Region 2 provides oversight and technical support and assistance to this state-led effort.

Lack of SO<sub>2</sub> Attainment State Implementation Plan (SIP) and implications in new air permits and DOT highway funding

Outdated and expensive energy generation and distribution system, overly reliant on fossil fuels; Aging electrical grid infrastructure (disaster recovery and implementation of Integrated Resources Plan (IRP) goal of 100% renewables by 2050)

Major repairs are necessary as a result of aging infrastructure, recent impacts from hurricanes and earthquakes, and long standing lack of financial capability. Consequent non compliance affecting public health. Beneficial use of available disaster recovery funding and CWA State Revolving Funds is being facilitated. Needs far exceed financial and governance capacity.

Puerto Rico's financial crisis and other factors have affected its ability to implement an effective regulatory RCRA Subtitle D Municipal Solid Waste Landfill Program, including ensuring that all open dumps stop receiving waste and close safely. Conditions have been exacerbated by recent disasters. EPA has been providing assistance to help Puerto Rico build program capacity and has issued numerous federal enforcement orders aimed at stopping waste receipt and closing open dumps.

USVI wants the refinery to restart so that all the jobs and revenue will be realized and continue. However, there are significant issues associated with Limetree Bay's Plantwide Applicability Limit (PAL) permit that are subject to the agency's look back process.

Lack of financial, technical, and resource capacity of USVI Waste Management Authority (WMA) and non-compliance issues. Beneficial use of disaster recovery and mitigation funding and EPA CWA Construction Grants.

The U.S. Virgin Islands relies on two open dumps that lack capacity and require closure under a Federal Court Order. Although some conceptual plans have been discussed with EPA, the U.S. VI lacks concrete strategies for new landfill infrastructure. EPA has been providing assistance to help U.S. VI build capacity.

distinct from the rest of the country. Puerto Rico is effectively in bankruptcy, having defaulted on debt; and t  
ing environmental programs across the environmental management spectrum.

Javier Laureano 212-637-4125
Rick Ruvo 212-637-4014
Carmen Guerrero (787-977-5875); Rick Ruvo (212-637-4014); Eric Schaaf (212-637-3107)
Carmen Guerrero 787-977-5875
[Lead POC: Ariel Iglesias 212-637-3315]; Dore LaPosta 212-637-4000; Eric Schaaf 212-637-3107; Carmen Guerrero 787-977-5875
[Lead POC: Eric Schaaf 212-637-3107]; Rick Ruvo 212-637-4014; Carmen Guerrero 787-977-5875
Carmen Guerrero 787-977-5875; Javier Laureano 212-637-4125
[Lead POC: Ariel Iglesias 212-637-3315]; Dore LaPosta 212-637-4000; Eric Schaaf 212-637-3107; Carmen Guerrero 787-977-5875

he USVI is in a similarly di

State	EPA Program Area	Issue Title
DE	Land	Standar Chlorine Superfund Site Remedy
	Air	CRODA and Ethylene Oxide (EtO)
	Lnd	Blades Superfund Site
DC	Air	Reegional Haze Second Implementation Period SIP
	Air	Vulcan Materials (aka Virginia Concrete Materials) Permit
	Wtr	Anacostia River Sediment Project (ASRP)
MD	Chem	State Hazardous Waste Program
	Wtr	MDE Drinking Water Staffing Challenge
	Wtr	Chesapeake Bay Restoration
	Air	Controls on Coal Fired Power Plants

## State-Specific Issue Description

This Fund-led National Priorities List (NPL) site is progressing towards a cleanup decision to address contamination at the site which will exceed \$50 million. An EPA Administrator briefing on this site will be scheduled for early 2021.

The environmental justice community have serious concerns regarding testing at this site which determined that elevated levels of EtO are present. DNREC has been delegated primary authority under the CAA. EPA R3 has provided technical and community outreach support.

A Fund-led NPL remedial investigation is underway at this recently listed NPL site. In spring 2021, there will be removal work in coordination with DNREC regarding Per- and Polyfluoroalkyl Substances (PFAS) residential well sampling.

R3 will propose to approve DC's Regional Haze State Implementation Plan (SIP) under the CAA in February/March 2021. This rulemaking could potentially attract public attention due to being the first Regional Haze Second Implementation Period SIP in the country out for public comment.

Vulcan Materials is a concrete mixing plant in Southwest DC. There is significant community interest from local elected officials and community groups in this facility. They are concerned about dust emissions, environmental justice concerns, and compliance issues. DC is reviewing an air permit application for the source and R3 will coordinate with DC during their evaluation of the permit.

R3 has provided technical support to DOEE on plans to clean up polychlorinated biphenyls (PCBs), dioxins, pesticides, polyaromatic hydrocarbons (PAHs), and metals contaminated sediments in the 9 mile Anacostia watershed. R3 staff have provided technical consultation to DOEE for over a decade on the project to assist in the overall goal of restoring the Anacostia to provide recreational uses.

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Restoration of the Chesapeake Bay is a priority for Maryland. Meeting targets which are identified in the TMDL by 2025 will require implementation of stormwater programs and agricultural best management practices as identified in their Phase III Watershed Implementation Plan. Additionally, delays continue to occur with the reissuance of permits for Phase 1 Municipal Separate Storm Sewer System (MS4) communities.

PA is subject to Reasonably Available Control Technologies (RACT) due to its location in the Ozone Transport Region. There are over 100 coal-fired power plants subject to RACT requirements in PA. PA's RACT Rule was overturned in court so PA needs to develop new emission limitations for coal fired power plants. Additionally, the Ozone Transport Commission submitted a recommendation to EPA for additional control measures at certain coal fired electricity generating units in PA. (CAA 184(c) Petition.

<b>EPA POC</b>
Linda Dietz 215-814-3195
Cristina Fernandez 215-814-2178
Liinda Dietz 215-814-3195
Cristina Fernandez 215-814-2178
Cristina Fernandez 215-814-2178
Linda Dietz 215-814-3195
Stacie Driscoll 215-814-3368
Cathy Libertz 215-814-2737
Cathy Libertz 215-814-2737
Cristina Fernandez 215-814-2178

PA	Air	Regional Haze SIP
	Wtr	Shortfall in Meeting Chesapeake Bay 2025 Targets
VA	Air	Giles County VA SO2 Nonattainment Area
	Lnd	Hidden Lane Landfill Superfund Site
	Wtr	Chair of the Chesapeake Bay Program Executive Council
WV	Wtr	Proposed Aluminum Criteria
	Air	2 Facilities - Ethylene Oxide (EtO)
	Lnd	Paden City

PA's Regional Haze SIP was initially vacated by courts and then resubmitted to EPA. EPA cannot act on subsequent Regional Haze SIPs until the first implementation period SIP is approved.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

PA's Phase III Watershed Implementation Plan falls short of meeting the 2025 targets for the Chesapeake Bay TMDL. As with other states, PA relies heavily on agricultural best management practices to reduce nutrients and sediments. Other Chesapeake Bay states (MD, VA, DC) as well as non-governmental organizations have pointed to PA's shortfall and demanded action from EPA. There are current lawsuits regarding the TMDL.

A portion of Giles County, VA, around the L'Hoist Kimballton Plant has been designated nonattainment in the Round 4 for the 2010 SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS) on December 31, 2020. This is the only Round 4 nonattainment area in R3. Coordination with VA is underway.

R3 is implementing the construction of a waterline in a residential neighborhood adjacent to the landfill that has been impacted by the Site's groundwater contamination. There are concerns surrounding waterline easements and construction on the site.

VA's Governor is the current chair of the Chesapeake Bay Program and Matt Strickler, Secretary of Natural Resources, is the current chair of the Bay Program's Principals Staff Committee. VA wants to accelerate focus and action on 3 priorities: (1) Climate Change (2) Diversity, Equity, Inclusion and Justice (3) Meeting Targets in the TMDL.

R3 has reviewed and evaluated the State's 2016 proposed aluminum criteria and 2019 amendments. The criteria are moving through a biological evaluation and pre-consultation with US Fish and Wildlife Service. This is a high profile issue for the state.

### Ex. 5 Deliberative Process (DP)

EPA is helping to model risk exposure using local meteorology from the facilities. Environmental justice communities have expressed concerns about health risks. R3 is supporting analysis of monitoring data and communication with the community.

R3 Superfund Site Assessment and Removal programs are currently evaluating groundwater contamination that is affecting the town's water supply.

### Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

There is ongoing elected officials, media, and community interest.



Cristina Fernandez 215-814-2178
Cecil Rodrigues 215-814-2683
Cristina Fernandez 215-814-2178
Linda Dietz 215-814-3195
Carin Bisland 410-267-5732
Cathy Libertz 215-814-2737
Cristina Fernandez 215-814-2178
Linda Dietz 215-814-3195

State	EPA Program Area	Issue Title
AL	Other	Birmingham - EJ Challenges
	Enfrcmnt	3M
FL	Wtr	404 Assumption
	Wtr	Everglades
GA	Air	EtO
	Lnd	Westside Lead Study Area
	Wtr	NPDES Permitting
KY	Air	KY 2008 8-hour Ozone Interstate Transport
MS	Lnd	Cleanup of the MS Phosphate Site in Pascagoula
NC	Other	Chemours
	Wtr	401 training requests

## State-Specific Issue Description

Birmingham is comprised of several communities that are environmental justice communities of concern. Two examples include the 35th Ave Lead site with ongoing soil lead removal activity and a Risk Assessment related to elevated hexavalent chromium emissions in the Birmingham neighborhood of Wylam. ADEM would like EPA to continue working closely with them on risk communications and community outreach.

In July 2020, ADEM announced a multimedia interim consent order to address PFAS contamination with 3M for their Decatur, AL facility. ADEM is awaiting further guidance and additional clarity from EPA concerning federal PFAS authorities.

Florida's 404 program became effective on 12/22/2020 and FDEP is supportive of maintaining assumption. There has been recent litigation and stakeholder interest throughout the State. FL is interested in EPA's position on the litigation and next steps.

Everglades restoration in general is a top priority for FDEP - including but not limited to project funding, working with multiple partners, and addressing existing Consent Degrees. The state has interest in particular in trying to identify an earlier termination date for the Moreno CD.

GA EPD has implemented monitoring at several sites across GA and is experiencing challenges related to elevated background levels. R4 is working with GA EPD on developing risk messaging to help explain high background levels and other questions they've received from the community.

Due to the large number of impacted properties, R4 is positioning the site for proposal to the NPL. R4 is closely coordinating activities with GaEPD and the City of Atlanta and both have expressed preliminary support for listing, but are concerned about likely expansion of the site as well as the potential increase to the state's cost share.

1. There are several cross-state issues with FL, including the BASF Permit, where GAEPD is waiting on FL to issue a final TMDL. Additionally the City of Valdosta is under a Consent Order from GA EPD to address SSOs that impact northern Florida. Elected officials in Florida have expressed concern about impacts to downstream communities.
2. CSO Permits for Columbus and ATL: The Columbus Permit is on appeal and the ATL permit is on public notice. GA previously expressed the need for EPA's support as they make strategic water quality advancements through NPDES permitting for these metropolitan areas.

On October 15, 2020, as part of a larger rulemaking entitled the Revised Cross State Air Pollution Rule (CSAPR), EPA issued a proposed rule to reverse EPA's previous approval of Kentucky's state implementation plan (SIP) and allow EPA to implement a Federal Implementation Plan lowering Kentucky's NOx trading budget to address the Commonwealth's contributions to downwind states. EPA is under court-order to finalize the Revised CSAPR no later than March 15, 2021 and is contemplating finalizing the proposed actions for Kentucky.

MDEQ remains supportive of EPA's activities at this site, but is concerned with eventual cost share liabilities and potential future obligations for long-term operation and maintenance.

NC took the lead to address concerns about PFAS releases at the Chemours facility by characterizing the PFAS in groundwater, surface water and air emissions, determining effective treatment and control options, making NPDES permit modifications, and undertaking ongoing enforcement actions to bring the facility into compliance. NC DEQ is awaiting further guidance and additional clarity from EPA concerning federal PFAS authorities.

NC specifically requested expedient training on 401 issues following passage of Navigable Waters Protection Rule, and several other R4 states echo this sentiment (MS, KY).

<b>EPA POC</b>
Brandi Jenkins 404-562-9124
Carol Kemker 404-562-8975
Tom McGill 404-562-9243
Jeaneanne Gettle 404-562-8979
Brandi Jenkins 404-562-9124
Randall Chaffins 404-307-3076
Chris Thomas 404-562-9459
Lynorae Benjamin 404-562-9040
Randall Chaffins 404-307-3076
Carol Kemker 404-562-8975
Jeaneanne Gettle 404-562-8979

SC	Other	Risk Communications - EtO/Lanxess
TN	Other	Holston
	Air	TN I/M SIP

SCDHEC has requested assistance with risk communications related to the chemical manufacturing plant in North Charleston. Specifically, messaging around ethylene oxide (EtO) as this remains a critical need due to the number of unknown factors and EtO emissions.

Recent citizen group inquiries have raised concerns that the materials Holston is open burning also include PFAS. At the state's request, EPA is providing assistance in reviewing the state RCRA permit application as the current permit expires in March 2021.

Tennessee's SIP revisions requesting removal of the motor vehicle I/M program for the Middle Tennessee Area and the Hamilton County Area final rulemaking action was signed by the previous Regional Administrator on January 19, 2021, and a prepublication copy was posted on the internet on the morning of January 20, 2021. This final rulemaking is on hold and TDEC is supportive of the SIP revision.

Brandi Jenkins 404-562-9124
Brandi Jenkins 404-562-9124
Lynorae Benjamin 404-562-9040

State	EPA Program Area	Issue Title
IL	Air	Illinois Exceptional Events Demonstration
	Enforcement	General Iron's Move to Southeast Chicago
	Enfrcmnt	East St. Louis Area Sewage Overflow Issues
IN	Air	2015 Ozone NAAQS
	Wtr	State Bill Removing Isolated Wetlands from State Regulation
	Air	Air Monitoring Near ArcelorMittal—Burns Harbor



## State-Specific Issue Description

Illinois recently submitted a demonstration that claims that smoke from Arizona wildfires impacted ozone concentrations measured on June 18 and June 19, 2020, in Northbrook, Illinois. Final action on the demonstration will determine whether the Chicago area, which includes counties in Illinois, Wisconsin, and Indiana, qualifies for redesignation to attainment or not.

General Iron operated the largest metal shredder in Region 5 until it ceased operations on December 31, 2020 in the Lincoln Park neighborhood with intent to move its operations to southeast Chicago. Illinois EPA issued a construction permit for a General Iron facility to be built 20 miles southeast in Chicago. EPA Region 5 reviewed the permit for the new facility and provided comments. Illinois EPA made significant changes to the permit in response to EPA's and the public's comments. Currently, there are two civil rights investigations (EPA and HUD) pending due to the environmental justice concerns of this move. In addition, City of Chicago's Department of Health issued a letter to General Iron on December 23, 2020 identifying significant deficiencies with the permit application was up for public comment through January 14, 2021 as well as a request for additional information.

Communities in the East St. Louis area with significant environmental justice concerns are experiencing chronic sanitary sewer overflow (SSO) issues. Expected causes include aging infrastructure and lack of proper operations and maintenance. Advocacy group have been working with residents on failing and inadequate sewage and stormwater infrastructure systems. Illinois EPA announced a grant opportunity to benefit Centreville, Alorton, and East St. Louis through stormwater runoff control planning and project implementation in November of 2020. Applications were due December 10, 2020. No grant has been awarded yet. Enhanced monitoring and compliance assurance to address sewage discharges across the sewer shed is currently taking place. R5 ECAD, R5 WD, and R5 TMPO will continue to convene local, state and federal partners as needed to facilitate a whole-of-government approach.

Porter County is part of a designations remand for areas designated nonattainment under this standard. Indiana submitted recommendations for EPA to consider in response to the court remand. Indiana has been critical of EPA's intended designation boundaries and continues to argue for a smaller nonattainment area.

The Indiana Senate passed SB 389 on February 1, 2021. If signed into law, this would remove Indiana's isolated wetland law from the books. EPA has received several citizen complaints and IDEM inquiries outlining concerns that most wetlands in Indiana will no longer be regulated and requesting EPA's help. SB 389 is more detrimental since the previous Administration's definition of Waters of the U.S. removed many wetlands in Indiana from federal jurisdiction. No EPA action is required at this time, but this emphasizes challenges with the regulatory uncertainty over WOTUS.

ARD deployed a continuous metals monitor near the ArcelorMittal-Burns Harbor facility after observing significant increases in manganese concentrations in the area. ARD has also received complaints from U.S. National Park Service employees at the new Indiana Dunes National Park. ARD referred the issue to Region 5's Air Enforcement and Compliance Assurance Branch and is coordinating with IDEM.

EPA POC
Katie Siegel (312) 886-3006
Karina Kuc (Engineer) (312) 353-5090 Kosta Loukeris (Acting Section Chief) 312-353- 6198
Dean Maraldo 312-353-2098
Doug Aburano (312) 353-6960
Melanie Burdick 312-886-2255
Katie Siegel (312) 886-3006

<b>MI</b>	Air	Detroit 2015 Ozone
	Air	SO2 SIP Disapproval and FIP Promulgation for the Detroit Area:
	Lnd	Gelman Sciences – Possible request for NPL Listing
<b>MN</b>	Air	Taconite
	Wtr	Revisions Industrial and Agricultural Water Quality Standards (Class 3 & Class 4)
<b>OH</b>	Air	NSPS OOOO/a Applicability at Ohio Oil and Gas Facilities
	Air	Monitoring Network Impacts During Covid
	Enfrcmnt	Northeast Ohio Regional Sewer District (NEORS D) Enforcement Matter

Michigan is concerned about the likely reclassification (“bump-up”) of the Detroit nonattainment area to the Moderate classification. At Moderate, mandatory requirements including a vehicle inspection and maintenance (I/M) program and major stationary source reductions (known as RACT) are required.

EPA is in the process of disapproving a SIP in the Detroit area that fails to demonstrate attainment of the SO<sub>2</sub> NAAQS. EPA is developing a FIP to establish limits at power plants and a US Steel facility in the area to meet the SO<sub>2</sub> NAAQS

Key municipal stakeholders have sent a letter to Michigan’s governor requesting her to support NPL listing of the Gelman contaminated groundwater plume site. Michigan EGLE is considering this request, however, currently has Consent Judgement with the PRP to control site contamination. Congresswoman Dingell has been active in the public discussions of the Gelman plume.

## Ex. 5 DP / Ex. 7(A)

Minnesota’s existing water quality standards for the protection of state waters for industrial and agricultural purposes are based on outdated (1960s) science. Minnesota proposed updates to these water quality standards in October 2020, but tribes and environmental groups strongly oppose these updates because they believe the existing Class 3 & Class 4 criteria provide ancillary protection for aquatic life and wild rice uses and fear the updates to these criteria will reduce protections for aquatic life and wild rice uses.

### Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

When the State completes its rulemaking process, the revisions will be submitted to EPA Region 5 for review and approval or disapproval and EPA’s action may be challenged by the tribes and environmental groups.

An oil and gas facility is relying on Ohio’s general permits for exemptions from EPA’s NSPS OOOO/a for oil and gas sources. The permits contains ambiguous language regarding applicability and Region 5 has been working with Ohio EPA to clarify and/or revise their general permit language for these facilities to provide clarity and enforceable terms.

The State of Ohio air monitoring network was greatly impacted by Covid-19. Due to “stay-at-home” orders, staff were unable able to go into the field or lab, so intermittent sampling was suspended. This includes filter-based PM, lead, metals, VOC canisters, and the chemical speciation network. EPA is working with Ohio to return the network to normal operations and assessing the impacts of data loss.

NEORSD, OEPA, EPA, and DOJ have entered into a Consent Decree (CD) to address combined sewer overflow (CSO) noncompliance throughout their system. The Parties have also recently modified portion of the CD which are currently lodged with the court. NEORSD has made repeated requests during the last Administration for another CD modification that would eliminate the requirement to build a chemically enhanced high-rate treatment system for a CSO direct-discharge point to Lake Erie. EPA and DOJ are working with OEPA to present a united response to NEORSD on the Agencies’ position on this matter.

Doug Aburano  
(312) 353-6960

Doug Aburano  
(312) 353-6960

Nuria Muniz  
(312) 886-4439  
Michael Berkoff  
(312) 353-8983

Doug Aburano  
(312) 353-6960

Aaron Johnson  
312-886-6845

Doug Aburano  
(312) 353-6960

Katie Siegel  
(312) 886-3006

Jennifer Welch  
312-353-4628

WI	Air	2015 Ozone Remand
	Wtr	New Rainbow Smelt PFAS Consumption Advisory for Lake Superior
	Enfrcmnt	Resolution of Enforcement Cases

Five areas in Wisconsin are affected by a court's decision to remand the nonattainment designations to EPA. Wisconsin continues to recommend the original nonattainment boundaries, despite the court ruling and EPA's guidance and past practice. Wisconsin has expressed strong concern with EPA's process for issuing new designations, as well as EPA's technical assessment of the state recommendations.

A Lake Superior fish advisory for Rainbow smelt was issued by the State of Wisconsin due to high PFOS levels on January 15, 2021. This is the first US fish advisory for PFOS in the Great Lakes proper. This new advice limits fish consumption to 1 meal a month for the general population. For smelt fish consumers, the new consumption advice will be impactful as this is a highly consumed fish. This species is also vastly consumed by both predator fish and many bird species.

The primary issue for WDNR is final resolution of enforcement cases after the Wisconsin Act 369 passed right before the current Governor was put into office. Wisconsin Act 369 requires settlements first be submitted to the legislature for approval. This process resulted in no cases being approved and all are sitting with signed settlement docs but nothing finalized.

Doug Aburano  
(312) 353-6960

Sarah Marshall  
(312) 886-6797



State	EPA Program Area	Issue Title
AR	Air	AR FIP Withdrawl
	Land	AR UST Program
	Other	Fort Smith
LA	Wtr	Cornerstone Chemical NOD
	Air	EtO
	Enfrcmnt	DPE
NM	Other	Cannon AFB PFAS
	Enfrcmnt	Oil & Gas Overflights
	Air	Exceptional Event Determination
OK	Lnd	Put Pile No-Migration Variance
	Other	McGirt Decision
	Air	OK Visibility SIP

## State-Specific Issue Description

Phase III SIP Approval/Regional Haze FIP withdrawal – The Region approved the last piece of the Arkansas Regional Haze SIP and is awaiting the Administrator’s signature on the accompanying FIP withdrawal, in order to complete the agency’s concurrent publication of both actions with the same effective date.

Arkansas Underground Storage Tank Re-State Program Approval Package - On January 7, 2021, the Arkansas UST State Program Approval Federal Register Notice was published and open for public comment. The 30-day public comment period will end on February 8, 2021.

The parties are waiting to hear from the court regarding Fort Smith’s motion requesting judicial resolution of the dispute concerning its Consent Decree modification requests with the District Court for the Western District of Arkansas.

# Ex. 5 DP / Ex. 7(A)

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 DP / Ex. 7(A)

Exceptional Event Demonstration Package: Region 6 will address exceptional events package from NMED for multiple events in 2018 of PM10 exceedance due to high wind dust events.

Put Pile No-Migration Variance – Clean Harbors - On January 19, 2021, a Federal Register notice was published for proposed No Migration Variance (NMV) guidance for put piles. Public comments on the proposed guidance will be accepted through February 18, 2021.

Pawnee Nation of Oklahoma v. EPA (10th Circuit; filed 11/27/2020): On December 28, 2020, the Court granted the Petitioner’s unopposed motion to abate the case for 120 days so that the Pawnee Nation can complete its evaluation of the October 1 approval and determine how to proceed. The record is now due on April 27, 2021.

Oklahoma Visibility Transport SIP: proposed action on three SIP submittals addressing the requirement that Oklahoma emissions do not interfere with other States’ plans for visibility.

<b>EPA POC</b>
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619

TX	Lnd	Kashmere Gardens
	Lnd	CCR Progroom
	Air	El Paso SIP

City of Houston/5th Ward/Kashmere Gardens - Contamination associated with a nearby former wood treating facility, now owned by Union Pacific Railroad, is a concern for the city and the community. The Texas Department of State Health Services released a health study which identified higher than expected incidence of cancer in the area, including childhood leukemia. The Mayor of Houston has asked that the site be listed as a Superfund Site; however, cleanup of the UPRR site is currently being addressed through a RCRA permit issued by TCEQ.

On December 8, 2020, the proposed rule for approval of the partial Texas Coal Combustion Residual (CCR) Permit Program was published in the Federal Register. Public comments are being accepted through February 8, 2021.

## **Ex. 5 Deliberative Process (DP)**

David Gray, 214.789.2619
David Gray, 214.789.2619
David Gray, 214.789.2619

State	EPA Program Area	Issue Title
IA	Air	Biofuels & Renewable Fuel Standards (RFS)
	Land	Dico (Des Moines TCE) Superfund Site Cleanup & Redevelopment
	Wtr	Meskwaki Tribe TAS
KS	Air	Flint Hills Prairie Pre-Scribed Fires
	Air	NAAQS Lead Redesignation in Saline, KS

**State-Specific Issue Description**

Iowa leads the nation in producing 25% of all the ethanol in the nation. The ethanol industry is interested in limiting or denying exemptions to the RFS. In 2018, the ethanol industry sued EPA claiming the Agency improperly granted Small Refinery Exemptions (SREs) and the 10th Circuit recently struck down three exemptions granted by EPA. EPA has 65 outstanding SRE requests, many likely impacted by the 10th Circuit Case which has been appealed to the Supreme Court. The state of Iowa would likely support the ethanol industry position that these SRE's hurt the ethanol industry and would additionally ask EPA to provide certainty in the ethanol market for a specified volume through the RFS.

IDNR has worked closely with EPA on cleanup and redevelopment of the Dico site which has been the subject of significant city, public, and congressional interest, primarily focusing on the need to change the blighted condition of the property. On 2/1/21, a Consent Decree between the U.S., Dico/Titan, and the city of Des Moines was entered by the Court, resolving years of litigation and providing a clear path for site cleanup and future redevelopment of the site. The litigation also resulted in significant cost recovery for the U.S. and sets an important precedent on the issue of CERCLA arranger liability. IDNR is interested in EPA completing site cleanup projects necessary to support redevelopment, and is interested in pursuing partial site deletion as soon as possible.

Local state legislators have expressed concern regarding Meskawki's TAS which was granted in 2019, primarily from an ag and municipal perspective that standards might force activities on non-tribal lands. Both national and state legislators have been briefed, and EPA will work with Tribe as they work on draft standards (which just arrived in house).

KS and OK burn about 2.3 million acres of Flint Hills tallgrass prairie during spring prescribed fires to preserve and manage rangelands. In 2003, air quality evaluations confirmed that rangeland burning can significantly impact air quality downwind, most frequently in Nebraska and Missouri. EPA and KS Dept of Health & Environment have been working to balance public health, tallgrass prairie preservation, and partnerships with the KS livestock industry. EPA advocates for spreading out the burn window over months/seasons and continues to do extensive outreach education and partnership building. The state will be interested in continued EPA support in education and outreach with flexibility in addressing exceedances through exceptional events requests as needed.

This nonattainment lead redesignation is a priority for the state of Kansas, as this is the last remaining nonattainment area in the state. There is at least three years of clean data for the area, and good progress has been made, however the former source declared bankruptcy and there is a new source owner. KDHE is concerned about working with a new source, potential changes at the source and impacts to redesignation, and their level of experience with redesignations. EPA is working closely with Kansas on redesignation planning.



## EPA POC

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dana Skelley, Air DD (913-551-7923)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Mary Peterson, Superfund DD (913-551-7882)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Jeff Robichaud, Water DD (913-551-7146)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dana Skelley, Air DD (913-551-7923)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dana Skelley, Air DD (913-551-7923)

	Enfrcmnt	Off-Site Rule Determination at Superfund Sites for Chat Sales
MO	Lnd	West Lake Landfill (WLL) Superfund NPL Site
	Lnd	Big River Watershed Multi-Site Project <i>(Big River Mine Tailings &amp; SW Jefferson County Superfund NPL Sites)</i>
	Enfrcmnt	EPA Inspection & Enforcement Presence
	Wtr	303d Overlist

The Tar Creek Superfund Site in Region 6 has chat sales for commercial use as an integral part of the remedy. Use of chat in road asphalt is the largest use, and asphalt companies in Missouri and Kansas are major buyers. CERCLA requires that any facilities that receive Superfund cleanup waste be in compliance with other environmental laws (CWA, CAA, etc), and so Region 7 has to make determinations of compliance for asphalt companies before they can receive waste from the Tar Creek site. Making these determinations quickly enough to not disrupt the timeframes desired by the purchasers is difficult. We are working cooperatively with Kansas to gather the info from state files necessary to complete these determinations, but it is an unanticipated workload for the state and they have expressed concerns about meeting expected timelines

The WLL Superfund Site contains radiologically impacted material (RIM) and has been the subject of considerable public interest for over 8 years. The remedial design for the portion of the site with RIM is underway with completion planned for late 2022. Community and congressional members have expressed frustration with the time to complete the additional investigations and design work necessary to implement the remedial action. Historically, EPA has been asked to relocate residents living near the site but EPA determined that site conditions do not warrant relocations at this time based on available data. MDNR has been actively engaged in the technical aspects of the ongoing OU1 RD investigation and OU3 RI. In addition, MDNR is the lead agency for portions of OU2 and is interested in advancing the implementation of the OU2 remedy. EPA and MDNR are working very collaboratively on this complex project.

The Big River watershed includes 107 river miles, 14,000 acres of floodplain, and 500 residences impacted from historic lead mining. Impacts at the sites have resulted in excessive, uncontrolled human health and ecological risks. EPA is pursuing an Interim Record of Decision (IROD) which could exceed \$800 million. It is expected that much of the burden for cleanup will rest with EPA and the state. Many stakeholders including federal and state agencies, PRPs, and the public are expected to engage on the remedy decision during the upcoming IROD public comment period. MO state agencies have expressed support for a remedy that addresses lead contamination, however there are concerns about the state's cost share. MDNR is also interested in EPA signing the IROD as soon as possible so that the state can make decisions about restoration projects they can perform using funds from a NRD settlement. EPA and MDNR are working collaboratively in order to leverage available funding.

MO has taken the position since 2017 that they do not want any federal inspections or enforcement in delegated programs in MO. We have largely assented. This is out of step with our history in MO and other R7 states, our current practice in other R7 states, and Agency practice around the country.

EPA is overlisting 40 lakes for nutrients. Public comment period was extended to 3/22. Lake of the Ozarks and Truman will generate significant concern and MO does not support listing at senior levels.

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dave Cozad, Enfcmt DD (913-551-7587)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Mary Peterson, Superfund DD (913-551-7882)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Mary Peterson, Superfund DD (913-551-7882)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dave Cozad, Enfcmt DD (913-551-7587)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Jeff Robichaud, Water DD (913-551-7146)

	Lnd	Underground Storage Tank (UST) State Program Approval
	Air	St Louis Ozone Designation Remand & Vehicle Inspection/Maintenance Removal
	Enfrcmnt	AltEn
	Enfrcmnt	Big Ox

R7 received an UST/LUST Program re-SPA (State Program Approval) application from Missouri in January 2019 and has been working to address issues related to state agency roles and responsibilities for the program. The Missouri UST Program approval and operation of the state insurance fund are linked and there have been concerns regarding adequate program funding and program implementation practices. Recently MDNR has made progress in working with the state insurance fund to resolve issues related to the program funding and fund operation. Additionally, MDNR and the state insurance fund have been collaborating on two legislative packages to be considered in the 2021 state legislative session, that may provide permanent fixes to some of our state program concerns. R7 continues to work with MDNR to find a pathway to resolve the outstanding program deficiencies and move forward with the re-SPA application.

MO has requested removal of the requirement for vehicle Inspection/Maintenance (IM) for Jefferson County and part of Franklin County which were historically included in the St. Louis Ozone non-attainment area, but re-designated in 2015 as attainment. The state also requested the removal of the IM requirement from the part of Franklin County that is still nonattainment. The Jefferson County designation was remanded to EPA for consideration in July 2020. On Jan. 19, 2021, former Administrator Wheeler signed final designations in response to the remand which includes a nonattainment designation for Jefferson County. This will effectively not allow for IM removal. These final designations are pending review by the new Administration. MoDNR, the MO Legislature and citizens are interested in the outcome of the vehicle IM removal request.

AltEn is an ethanol producer that uses waste pesticide treated seed as feedstock. Wet-cake and wastewater from the production process contains high levels of pesticides, and the facility does not have adequate waste handling practices for these wastes. The community around the facility is concerned, and numerous press articles have recently highlighted the situation. Action needs to be taken to require the facility to cease the improper handling of wastes, which could require the facility to shut down due to cost. The state is in the lead on this matter for now, but has asked for EPA to be engaged and we may need to get further involved if the facility will not cooperate with the state.

This is a civil enforcement action against a methane digester facility in eastern NE that had serious violations of the CAA. It is a joint EPA-State case. The parties are in pre-filing negotiations now over penalty amount, and are far apart. A complaint may need to be filed soon in federal district court. As of now, EPA and NDEE are in total agreement as to case strategy and settlement position but it is possible that could change if negotiations break down. The environmental issues at this facility resulted in considerable community and press attention.

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
DeAndre Singletary, LCRD DD (913-551-7373)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dana Skelley, Air DD (913-551-7923)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dave Cozad, Enfcmt DD (913-551-7587)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dave Cozad, Enfcmt DD (913-551-7587)

NE	Air	Regional Haze
	Wtr	Winnebago Tribe TAS



As a result of litigation on the first planning period regional haze SIP, EPA took a remand of the Long Term Strategy (LTS) for SO2 Best Available Retrofit Technology (BART) for NPPD's Gerald Gentleman Station (GGS). Neither the state nor EPA has finalized any action to address this outstanding obligation to date. Nebraska is in the process of developing its RH SIP for the second planning period and EPA believes that Nebraska can address the outstanding obligation for the LTS for SO2 BART at GGS as part of their second round SIP submission. We are working with Nebraska on the development of their SIP. If Nebraska addresses this outstanding obligation, we will also be able to move forward on outstanding infrastructure SIP submissions related to visibility or Prong 4. GGS has already raised "affordability" of controls as an issue for the second planning period to OAR. Nebraska may need our guidance/support on this affordability issue as they work with the source.

EPA approved the Winnebago TAS application in January. The Governor and several lawmakers had expressed serious concerns echoing stakeholders regarding tribal sovereignty and non-tribal members living on tribal land, however these concerns were not germane to EPA's action. No immediate action is expected although Winnebago is expected to start working to develop standards in the future.

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Dana Skelley, Air DD (913-551-7923)

Ed Chu, Acting RA/DRA (913-551-7333)  
Josh Tapp, Sr Advisor to Acting RA (913-551-7606)  
Curtis Carey, PAD (913-551-7506)  
Jeff Robichaud, Water DD (913-551-7146)

State	EPA Program Area	Issue Title
CO	Air	Denver Ozone NonAttainment Area
	Air	Weld County 2015 Ozone Designation Remand
	Water	Denver Water Lead and Copper Rule Variance
MT	Wtr	Water Quality Standards for Selenium
	Wtr	Litigation on EPA's approval of the State's multi-discharger nutrient variance
	Other	Billings PCE
ND	Other	Minot Landfill
	Wtr	International transboundary water quality concerns in the Red River Basin in ND/MN

## State-Specific Issue Description

Denver likely will not attain the 2008 or 2015 ozone standard by the attainment dates and the area will get bumped to severe for the 2008 standard and moderate for the 2015 standard. The State has expressed interest in an alternative compliance plan for use of reformulated gasoline in the severe area that would require federal rulemaking.

In July 2020, the D.C. Circuit granted the petition for review of the 2015 ozone standard nonattainment area boundaries designation for the Denver Ozone Nonattainment Area, specifically related to Weld County. In December 2020, Colorado expressed its desire to go through a full designations reconsideration in order to provide a new opportunity to engage all stakeholders in determining the boundary (current partial county or full county).

Region 8 approved a precedential variance of the SDWA Lead and Copper rule allowing Denver Water to provide filters to all customers with lead services lines (LSLs), accelerate full LSL replacements and use pH/alkalinity adjustment instead of orthophosphate treatment. If implemented effectively, Denver Water's approach will yield significantly greater reductions in lead levels than orthophosphate treatment, making it the optimal approach for children's health protection, and prevent additional nutrient loading in the watershed that orthophosphate would create, making it a better option from a water quality standpoint. Colorado supports the variance and will want EPA's approval to extend the variance in 2022.

In December Montana submitted to EPA selenium water quality standards (WQS) for the transboundary Lake Kootenai (half in the U.S, half in Canada) and the Kootenai River. EPA has 60 days to approve or 90-days to disapprove the standards. Teck Resources, the Canadian coal mining company whose British Columbia operations are the source of the selenium and other pollutants entering U.S. waters, has opposed this WQS and now seeks to engage further with EPA out of concerns over trans-national impacts through the Boundary Waters Treaty under the purview of the State Department. MT's new governor and administration have not signalled to EPA their position on the state's WQS submittal.

Litigation regarding Montana's nutrient variance program is ongoing, including litigation in both the U.S. District Court for the District of Montana and the U.S. Court of Appeals for the Ninth Circuit. **Ex. 5 Attorney Work Product (AWP)**

## Ex. 5 Attorney Work Product (AWP)

The EPA has requested that MDQ confirm that Montana's new Governor supports adding the Billings PCE site to the National Priorities List (NPL). The site was proposed to be added to the NPL in September, 2020 and could be added to the NPL during the next update, planned for Spring, 2021.

The Minot Landfill is a deleted NPL site where the City of Minot is the PRP and has ongoing O&M responsibilities under a CD. The City has submitted a proposal to allow recreational use on and adjacent to the landfill cap. EPA is working with the City and State to develop and modify the necessary documents, including the ROD and the CD. **Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

A DOJ attorney has been assigned.

To provide a water supply to central and eastern North Dakota the State recently issued an NPDES permit for the Red River Valley Water Supply Project. The Bureau of Reclamation, in January, issued a Record of Decision for an alternate diversion for that supply. Canada and Manitoba have raised concerns over the potential for inter-basin transfer of aquatic invasive species from the Missouri River Basin in the U.S. into the Red River Basin / Lake Winnipeg watershed. North Dakota does not share those concerns and would be interested in support for its permit and these projects.

<b>EPA POC</b>
Carl Daly 303-312-6416
Carl Daly 303-312-6416
Bert Garcia 303-312-6670
Bert Garcia 303-312-6670
Bert Garcia 303-312-6670
Betsy Smidinger 303-312-6231
Betsy Smidinger 303-312-6231
Bert Garcia 303-312-6670

SD	Other	Merger of Agriculture and DEQ
	Other	Gilt Edge SF Site
UT	Air	Redesignation of PM2.5 Nonattainment Areas - Salt Lake, Provo, Logan
	Air	UT Regional Haze Final Rule - Litigation and Reconsideration Request
	Air	Northern Wasatch Front (NWF) and Uinta Basin 2015 Ozone NAAQS Nonattainment Areas
WY	Air	Regional Haze Plans for Jim Bridger Power Plant
	Air	Regional Haze Plans for Wyodak Power Plant
	Other	Pavillion

South Dakota is currently undergoing a legislatively directed reorganization to combine its Department of Environmental Quality and Department of Agriculture. This will require state and EPA actions to ensure that the state continues to have federal authorization to implement several environmental programs.

The Gilt Edge Mine Superfund Site is located in Lawrence County, Black Hills area of South Dakota. The large abandoned hardrock surface mine requires about \$2million per year for ongoing contaminated water treatment.

Ex. 5 Deliberative Process (DP)

**Ex. 5 Deliberative Process (DP)**

A company has been doing some exploratory drilling to evaluate the feasibility of remining.

The Salt Lake City and Provo, Utah Serious 2006 24-hour PM<sub>2.5</sub> nonattainment areas were proposed to be re-designated from nonattainment to attainment on November 6, 2020 (85 FR 71023). EPA is working on responses to numerous adverse comments recieved during the comment period from NGOs.

In a November 27, 2020 Federal Register rule, EPA finalized its approval of Utah's SIP revision that provided an alternative to best available retrofit technology (BART) controls for NOx at the PacifiCorp Hunter and Huntington power plants. A request for EPA to reconsider the final rule and a lawsuit challenging the final rule have been submitted by environmental organizations.

The NWF and Uinta Basin (includes Indian country) will likely not attain the 2015 ozone standard by the August 3, 2021 attainment date and the areas will be reclassified to a Moderate ozone nonattainment area. If reclassified, EPA and the State will then have to put attainment plans together.

At WY and PacifiCorp's request, we expedited preparation of a proposed rule for the Jim Bridger plant and it was signed by the Regional Administrator on November 20, 2020. However, the proposed rule has not been published and is currently under the new Administration's review based on the January 26, 2021 regulatory freeze memorandum.

Since January 2020, we have engaged in settlement discussions regarding Wyodak through the Tenth Circuit's mediation program. The proposed SIP/FIP Wyodak settlement agreement was public noticed for comment on January 4, 2021. A request to extend the comment period was granted on February 3 and the comment period will now end on March 5.

The Wyoming DEQ requested EPA close the two monitoring wells installed in 2010 to support the Pavillion Groundwater Study initiated based on citizens complaints of potential contamination from O&G development. A draft plugging and abandonment plan will sent to WYOGCC and WDEQ during the week of February 15, 2021. The goal is to conduct plugging operations in the Fall 2021.

**Ex. 5 Deliberative Process (DP)**

Melanie Wood 303-312-7006
Betsy Smidinger 303-312-6231
Carl Daly 303-312-6416
Carl Daly 303-312-6416
Carl Daly 303-312-6416
Carl Daly 303-312-6416
Carl Daly 303-312-6416
Betsy Smidinger 303-312-6231



State	EPA Program Area	Issue Title
AZ	Air	Clean Air Act Plan and related Agricultural Statute
	Water	Navigable Waters Protection Rule/Jurisdiction
	Lnd	Motorola NPL site/West Van Buren State-Lead Site
	Lnd	Exide Site Closure

**State-Specific Issue Description**

EPA has a proposed consent decree deadline to act by July 30, 2021 on a Clean Air Act State Implementation Plan addressing the coarse particulate matter (PM10) air quality standard, for a partially rural area south of Phoenix that is home to agricultural operations. In January, we proposed partial disapproval of the plan, which relies on a State law and rules regulating parts of the agriculture sector. The State is concerned in part because our action, if finalized, would lead to a conformity freeze – meaning that new transportation projects cannot move forward; we are researching what projects may be affected. A freeze would end when the State submits and EPA approves a replacement plan. We also intend to propose a limited disapproval of the related agricultural statute and rules in February, which would have other adverse consequences if the problems are not adequately addressed.

The impacts of the NWPR are most profound in the arid west where decades of ongoing drought have reduced the quantity and quality of water available to people and aquatic ecosystems. As a result of the NWPR, approximately 93% of stream miles in AZ are no longer jurisdictional (i.e., within the purview of the Clean Water Act). While CA and HI have state authorities to protect waters that are no longer jurisdictional, AZ lacks or has nominal state regulatory authorities to protect non-jurisdictional waters. AZ is in the early stages of developing a “waters of the state” program to help fill regulatory gaps. Although AZ supports the NWPR, implementation of the new rule has been challenging as it requires labor-intensive jurisdictional determinations, without additional resources from EPA. Uncertainties around future federal action on the NWPR leaves AZ unable to explain to the public what waters might be covered under potential gap-filling state regulatory programs.

In June 2020, EPA provided a technical response to AZ Department of Environmental Quality (ADEQ) letters and technical memoranda (April 24, 2018; June 24, 2019; and December 5, 2019) requesting that EPA either 1) expand the western boundary of the Motorola 52nd Street Superfund Site (M52) to include ADEQ’s West Van Buren Site, or 2) separately list West Van Buren on the EPA National Priorities List (NPL). EPA’s response concluded that our analysis, including reviewing the dataset and analysis supporting the listing of the M52 NPL Site, do not justify expanding the M52 NPL Site to include the West Van Buren State Site. EPA has initiated a Preliminary Site Assessment which is the first step in evaluating the West Van Buren site as a potential addition to the NPL.

Exide is a former lead-recycling/smeltering facility in Vernon (Southern CA) that contaminated 10,000+ properties in a predominantly environmental justice community. The facility declared and settled bankruptcy in 2020 leaving approximately \$27M for an estimated \$70M facility closure. EPA was designated lead agency under the bankruptcy and is working with the CA Department of Toxic Substances Control (DTSC) and the site trustee to prioritize closure and stabilization actions and prevent public exposures; residential cleanups continue to be led by DTSC.

EPA POC
Matthew Lakin, Ph.D. Deputy Director, Air and Radiation Division (415) 972-3851
Ellen Blake Assistant Director, Water Division (415) 972-3496
Will Duncan, Superfund & Emergency management Division (415) 972-3412
Nicole Moutoux Assistant Director, Land, Chemicals, and Redevelopment Division (415) 972-3012

CA	Air	Southern CA and San Joaquin Valley Nonattainment Areas
	Wtr	US-Mexico Border/USMCA
	Lnd	Hunters Point Naval Shipyard NPL Site (Navy Lead)
HI	Lnd	Red Hill underground fuel facility

The 21M people who live in CA's South Coast (SC - greater LA area) and San Joaquin Valley (SJV) suffer from the worst air quality in the nation. In addition to significant emissions from vehicles, industrial, and agricultural sources, factors such as topography and meteorology contribute to the problem. Mobile source emissions are responsible for approximately 80% of nitrogen oxide (NOx) emissions, 90% of diesel PM2.5, and nearly 50% of greenhouse gas emissions. The CA Air Resources Board (CARB) and the SC and SJV air districts have repeatedly asked EPA and the federal government to do more to reduce emissions from sources such as interstate trucks, nonroad equipment, ships, and locomotives. We work closely with CARB and the SC and SJV air districts during development and implementation of State Implementation Plans (SIPs), recognizing that these plans rely heavily on large-scale deployment of cleaner mobile source technologies to attain the National Ambient Air Quality Standards (NAAQS). We continue to work with the State and districts on air quality plan development, and we support demonstration of innovative technologies and deployment of cleaner technologies through R9's West Coast Collaborative and the Clean Air Technology Initiative, and Diesel Emission Reduction Act and Targeted Airshed Grants.

To implement the USMCA's Tijuana River provisions, EPA is leading the environmental and engineering evaluation of infrastructure options to stem transboundary sewage pollution from Tijuana Mexico into San Diego County land-based and coastal waters. EPA is collaborating closely with the State of CA and other federal, state, and local stakeholders to ensure their views are reflected in the infrastructure option(s) selected later this year with the \$300M appropriated in the USMCA. CA and local stakeholders have a clear preference for investing the USMCA funding on U.S-side solutions vs. in Mexico, due to lack of confidence in Mexico's ability to sustainably finance operation and maintenance of existing or new water infrastructure.

This site is the largest, most complex Navy Superfund cleanup nationwide. The City of San Francisco has begun redeveloping parts of it, with people living in hundreds of units, but remaining redevelopment has been delayed for years due in part to fraudulent radiation sampling by a former Navy contractor. Although retesting is underway, EPA and the Navy are at odds over the risk assessment tools and inputs driving the cleanup of radiologically contaminated buildings. Unfortunately, this is being elevated to dispute resolution, which brings in the State. The State is supportive of EPA's position on this issue, particularly in the areas of determining background radiation and detection technology limitations. We have an excellent working relationship with CA Department of Toxic Substances Control and Department of Public Health in our collective oversight of the Navy's work.

In response to a major fuel release in 2014, EPA and the HI Department of Health established an ongoing Administrative Order on Consent with the U.S. Department of Defense to address cleanup and operations at the controversial Red Hill Facility at Pearl Harbor. Red Hill is the world's largest underground fuel facility, provides fuel for the Pacific fleet, and is located over a major Honolulu drinking water aquifer. Environmental groups, the Honolulu Board of Water Supply, and other stakeholders are demanding a multi-billion dollar retrofit of all operating tanks by 2037 or facility closure.

Elizabeth Adams  
Director, Air and  
Radiation Division  
(415) 972-3183

David Smith  
Assistant Director  
R9 Water Division  
(415) 972-3464

Angeles Herrera  
Assistant Director,  
Superfund & Emergency  
Management Division  
(415) 972-3144

Nicole Moutoux  
Assistant Director,  
Land, Chemicals, and  
Redevelopment Division  
(415) 972-3012

	Enfrcmnt	Managing wastewater (cesspools, treatment plants, and collection systems)
NV	Wtr	Navigable Waters Protection Rule/Jurisdiction
	Other	Nevada Climate Initiative
All Territories	Other	Climate Change
	Other	COVID Impacts
GU	Wtr	Abandoned Vessels in Apra Harbor

The County of Hi (Big Island) has limited capability to effectively plan, implement and manage wastewater collection and disposal projects. The county operates seven ageing or inadequate public sewer systems and has approximately 50,000 private cesspools throughout the county creating a significant public health risk and environmental concern. Using enforcement tools and leveraging funding mechanisms, EPA and Hi Department of Health have and will continue to address the lack of proper wastewater infrastructure management.

The impacts of the NWPR are most profound in the arid west where decades of ongoing drought have reduced the quantity and quality of water available to people and aquatic ecosystems. As a result of the NWPR, approximately 70% of stream miles in NV are no longer jurisdictional (i.e., within the purview of the Clean Water Act). While California and Hawaii have state authorities to protect waters that are no longer jurisdictional, NV lacks or has nominal state regulatory authorities to protect non-jurisdictional waters. Uncertainties around future federal action on the NWPR leaves Nevada unable to explain to the public what waters might be covered under potential gap-filling state regulatory programs.

Gov. Sisolak issued an executive order directing state agencies to develop NV's first State climate strategy in 2020. It contains a framework for reducing GHGs across all sectors, lays groundwork for climate adaptation and resiliency, and establishes a structure for continued climate action across the state. It incorporates a focus on climate justice. The Dept. of Env. Protection has reached out for technical assistance from R9 Air program and is pleased with the ongoing working relationship with EPA in carrying out its plan.

U.S. affiliated Pacific Islands already experience serious climate impacts, as described in the Fourth National Climate Assessment, including sea level rise, ocean warming and acidification, changing rainfall patterns, and increased severity and frequency of tropical storms. All three jurisdictions are working to address their climate vulnerabilities and reduce their GHG emissions, including through partnerships with federal agencies such as EPA, NOAA, DOI and DOE. EPA has the opportunity to work with these jurisdictions to better take climate change into account in the work supported by EPA grants and through provision of technical assistance.

COVID-19 has impacted the health and economies of the Pacific Islands, as well as available staffing at environmental agencies. Among the territories, Guam was hit particularly hard with more than 8,000 cases and 130 deaths, much of those occurring since September. The Pacific Islands will look for technical assistance from R9 in FY21 as they ramp up from Covid impacts suffered in FY20.

There are more than 30 abandoned and derelict vessels (ADVs) sunk in Guam's Apra Harbor, posing hazards to wildlife, commerce and recreation, including 14 ADVs that pose a "critical threat." The ADVs are likely to contain asbestos and PCBs in paint, caulk and electrical waste, as well as residual oil in significant quantity, and are situated adjacent to coral reefs, essential fish habitat, and sea turtle habitat. In December 2020, Guam Governor Lourdes Leon Guerrero signed an executive order establishing a task force of Guam agencies including Guam EPA to address and remove the ADVs; SEMD has the lead for R9 and has been working closely with Guam EPA on the ADVs for years.



<p>Thanne Berg Assistant Director Enforcement &amp; Compliance Assurance Division (415) 972-3908</p>
<p>Ellen Blake Assistant Director Water Division (415) 972-3496</p>
<p>Ray Saracino Air and Radiation Division (415) 972-3361</p>
<p>Shereen D'Souza Tribal, Intergov, &amp; Policy Division (415) 947-4193</p>
<p>Shereen D'Souza Tribal, Intergov, &amp; Policy Division (415) 947-4193</p>
<p>Pete Guria (415) 972-3043 Harry Allen (562) 733-0316 Superfund &amp; Emergency Management Division</p>

<b>AS</b>	Wtr	Boil Water Notices
<b>CNMI</b>	Other	Typhoon Disaster Relief
<b>FAS</b>	Other	Freely Associated States

In March 2010, two of American Samoa's eleven public drinking water systems were placed on a preventative continuous boil water advisory due to bacterial contamination of the aquifers. Since 2010, the AS Power Authority (ASPA) has implemented a corrective action plan with collaboration from AS-EPA and US EPA (ECAD and WD); boil water notices have since been lifted for approximately 66% of the Central System. ASPA's goal is to lift the boil water advisory for all of the Central System by the end of 2021 and the remaining small satellite system shortly thereafter.

The Additional Supplemental Appropriations for Disaster Relief Act (Disaster Relief), enacted June 20, 2019, provides the Commonwealth of the Northern Mariana Islands (CNMI) \$66.4M through EPA grants for improvements related to the consequences of Typhoon Yutu, including \$10.4M for water/wastewater improvements and \$56 M for solid management activities. In FY20, R9 awarded approximately \$10M to CNMI (\$9.4M for water/wastewater and \$0.6M to build solid waste capacity). In FY21, R9 anticipates awarding an additional \$6M including \$5.7M to increase regulatory capacity, develop an integrated solid waste management plan, and conduct emergency repairs to the Marpi landfill on Saipan.

U.S EPA R9 provides limited and targeted technical assistance to the Freely Associated States (FAS) through Interagency Agreements with Departments of Interior and State (DOI and DOS). Through past and current funding from DOI, EPA has provided training and certification to all six environmental laboratories in the FAS (4 state-level labs in FSM as well as national labs in Palau and Marshall Islands), which all continue to be certified for analyzing drinking water and nearshore sea water quality. Through recent funding from DOS, R9 is establishing an engineer circuit-rider program that will provide regular, on-the-ground technical assistance to the countries to help them address their climate vulnerabilities in the areas of drinking water, wastewater and solid waste. The IA with DOS also supports the removal of hazardous chemicals in the countries, helping to ensure that these chemicals do not enter the local environment during typhoons, storm surges, or king tide events.

Roberto Rodriguez,  
Enforcement and  
Compliance Assurance  
Division  
(415) 972-3302  
Corine Li  
Water Division  
(415) 972-3560

Doug Eberhardt  
Water Division  
(415) 972-3420  
Jeremmy Bauer  
Tribal, Intergov, & Policy  
Division  
(415) 972-3054

Shereen D'Souza  
Tribal, Intergov, & Policy  
Division  
(415) 947-4193

State	EPA Program Area	Issue Title
AK	Air	Fairbanks Air Quality
	Wtr	Sustainable Solutions to Rural Sanitation in Alaska
	Other	Compensatory Mitigation in Alaska as Vehicle to Address ANCSA Contaminated Lands
ID	Lnd	Active Mining
	Lnd	Mining Clean up
	Wtr	ID Water Quality Standards - Arsenic

## State-Specific Issue Description

The Fairbanks area has one of the highest levels of fine particle pollution in the nation and is designated as a “Serious” PM2.5 nonattainment area. **Ex. 5 Deliberative Process (DP)**

### Ex. 5 Deliberative Process (DP)

Basic sanitation remains a critical issue in rural Alaska. The State would like to see continued support from EPA to help find lower cost and sustainable solutions, to recognize the importance of public health to the sustainability of rural communities, and increase water infrastructure resilience across Alaska to coastal erosion, flooding, and permafrost thaw.

The State would like EPA and its sister federal agencies to explore how cleanup of roughly 591 contaminated lands, conveyed to Alaska Native Claims Settlement Act Corporations, might be eligible for consideration as compensatory mitigation under the CWA. **Ex. 5 Deliberative Process (DP)**

### Ex. 5 Deliberative Process (DP)

Mining (hardrock, suction-dredging, and large-scale) is a critical component of Idaho's economy. The Idaho legislature has requested that State and Federal agencies approve the Stibnite Mine Project in a timely manner and asked that the Project be added to the FAST-41 dashboard to facilitate interagency permit and NEPA coordination. Idaho seeks ongoing timely engagement in the review of mining projects and constructive participation with other agencies in NEPA and permitting efforts for proposed mine projects and mine expansion projects.

A number of former and active mine sites require cleanup actions and assessment activities. Considerable environmental cleanup work has occurred and continues in the southeast Idaho phosphate district, the former Coeur d'Alene mining district, and other mine sites throughout the state such as Blackbird Mine. **Ex. 5 Deliberative Process (DP)**

### Ex. 5 Deliberative Process (DP)

In 2010, EPA approved the IDEQ adoption of 10 µg/L arsenic human health criteria; the decision was challenged, and EPA settled in 2016 by accepting a remand and subsequently disapproving the 10 µg/L criteria. **Ex. 5 Deliberative Process (DP)**

### Ex. 5 Deliberative Process (DP)

<b>EPA POC</b>
Krishna Viswanathan 206- 553-0218
Tami Fordham 907-271-1484
Tami Fordham 907-271-1484
Tim Hamlin 206-553-1563
Calvin Terada 206-553-4141
Dan Opalski 206-553-1855

OR	Lnd	Cleanup Sites
	Other	Wildfires, Climate Adaptation, and Forestry
	Air	Climate Mitigation
WA	Lnd	Hanford Nuclear Reservation
	Wtr	Human Health Criteria/Water Quality Standards
	Wtr	Puget Sound Restoration and Recovery



State places great importance on Portland Harbor and Bradford Island cleanup sites. Former is complex NPL site 100% in remedial design. Latter is DOE and Army Corps of Engineers site straddling Oregon/Washington border with some state and tribal concerns and an NPL listing deferral.

More frequent and intense wildfires seen as due to climate change and past forestry practices; 2020 was most destructive fire season on record with millions experiencing hazardous levels of PM in air thousands of homes and businesses and over 1,000,000 acres of forest lost. EPA continuing to support recovery from these fires. State working on "Forest Accords" and habitat conservation planning.

State working on greenhouse gas emissions reporting, together with development of options to cap and reduce GHG emissions from large stationary sources, transportation fuels, and other liquid and gaseous fuels, including natural gas.

DOE has been unable to meet its cleanup commitments due to technical complexity of the tasks and funding limitations.

## **Ex. 5 Deliberative Process (DP)**

In November 2016, EPA partially disapproved certain human health criteria and promulgated more stringent federal water quality standards in their place. In 2017, EPA reconsidered and reversed our previous partial disapproval, and completed rulemaking to establish the less stringent criteria. In response, the State, and a group of environmental advocates and the Makah Tribe, filed separate lawsuits challenging EPA's actions. On January 29, the State of Washington and six federally recognized Tribes sent a letter to Acting Administrator Jane Nishida requesting EPA's immediate action to reinstate the (more stringent) 2016 federal rule.

Puget Sound is an economic and cultural engine for more than 4.7 million people, including 19 federally recognized tribes. Since 2010, Congress has appropriated over \$350 million in CWA funds with which EPA supports on-the-ground programs.

## **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

Calvin Terada 206-553-4141
Anthony Barber 503-326-6890
Krishna Viswanathan 206- 553-0218
Tim Hamlin 206-553-1563
Dan Opalski 206-553-1855
Dan Opalski 206-553-1855